

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5-7 rejected under 35 U.S.C. 102(b) as being anticipated by Miyaoh (US. 5,395,127).

Miyaoh discloses metal gasket having at least two functional layers (e.g. B10 and B12) having an opening (e.g. Hc), at least one leveling layer (e.g. B11 or B12) that partially covers the functional layer, the leveling layer being spaced radially outwardly from the opening to provide an uncovered portion (e.g. B10b and B13b) of the functional layer immediately adjacent the opening, the functional layer, in preassembled, uncompressed state of the gasket is formed as a flat piece of metal (e.g. flat plate portions covered by the functional layer), a stopper (e.g. B18 or B14) is radially aligned (e.g. both B18 and B14 are aligned radially with the uncovered portion) with the uncovered portion of the functional layer and the leveling layer is placed on a surface of the functional layer that is facing away from the stopper element (this is the case since the stopper is B14 and the leveling layers are facing away from the functional layer surface that faces the stopper element).

Regarding claims 2-3 and 5-7: The functional layers are formed of metal. The stopper element is formed by a separate ring element (e.g. B18 or B14). The stopper element is a folded over flange formed through the flange of a metal ring element (e.g. element B14). The stopper

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being placed between the two functional layers (e.g. this is the case since ring B18 is placed between top surface of B10 and bottom surface of B13).

Regarding limitations: Which in the assembled, compressed state of the gasket elastically deforms the functional layer to form at least one sealing area with elastic effect is considered to be method limitations and/or intended use limitations (since this occurs when the gasket is placed between two elements as shown in figure 4a and a sufficient bolt pressure is require to provide the compression of the gasket) which is given little patentable weight in an apparatus claim. The gasket of Miyaoh is capable of being used in a compressed configuration.

Response to Arguments

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. P./

Primary Examiner, Art Unit 3676

/Vishal Patel/

Primary Examiner, Art Unit 3676